

# Monterey Bay National Marine Sanctuary

## Fireworks Permitting Guidelines

### June 2004



#### Purposes

1. To assure that light, sound, and debris resulting from fireworks displays do not exceed negligible, short-term impacts to Monterey Bay National Marine Sanctuary (MBNMS or Sanctuary) resources or qualities;
2. To stabilize and streamline the authorization of marine fireworks displays, including the issuance of multi-year permits when appropriate, standardization of permit conditions, and Sanctuary acquisition of a single marine mammal incidental take permit on behalf of all fireworks sponsors;
3. To protect sensitive habitats from the proliferation of marine fireworks within the Sanctuary by confining displays to traditional public display areas; and
4. To prevent adverse cumulative impacts by establishing a fireworks display quota for each of the four traditional display areas, which will allow continuation of historical displays, but limit overall number and frequency of fireworks events.

#### Authority

1. The National Marine Sanctuaries Act (16 USC 1431 *et seq*) - Section 301(b)(3) states that it is the purpose and policy of the act “to maintain the natural biological communities in the national marine sanctuaries, and to protect, and, where appropriate, restore and enhance natural habitats, populations, and ecological processes.”
2. The Endangered Species Act (16 USC 1531 *et seq*) - Section 7(a)(1) states that Federal agencies shall “utilize their authorities in furtherance of the purposes of this chapter by carrying out programs for the conservation of endangered species and threatened species . . .”

#### Findings

1. Fireworks displays over the Sanctuary have been traditionally conducted as part of national and community celebrations, and foster public use and enjoyment of the marine environment.
2. Fireworks displays have the potential to cause unacceptable levels of disturbance to marine wildlife and habitats in some parts of the Sanctuary and should thus be restricted from such areas.
3. The number, frequency, and composition of authorized fireworks displays within the Sanctuary will be regulated to safeguard Sanctuary resources and habitat from undue disturbance.

4. Priority permit consideration will be given to displays that are linked to community celebrations (e.g. Independence Day and municipal anniversary events) that are open to and benefit the general public and foster free public use and enjoyment of the marine environment.
5. All previously approved annual public displays will continue to be authorized consistent with Sanctuary resource protection goals, and multi-year authorizations will be developed.

## Implementation Plan

1. Fireworks events will generally not be authorized within the following areas of the Sanctuary offshore to the limit of State waters (see Enclosure 1 or <http://montereybay.nos.noaa.gov/resourcepro/firework.html>):
  - MBNMS overflight restriction zones (i.e. sensitive habitat areas)
  - Endangered Species Act habitat areas
  - Significant marine mammal haulout or pupping areas
  - Significant marine bird roosting or nesting areas
  - Low human use areas (includes coastal areas where fireworks displays have not traditionally occurred and remote areas where a fireworks display would be distinctly unique from other environmental stimuli)
2. The MBNMS will designate conditional display areas where fireworks displays can be authorized, subject to specific conditions and limitations (see Maps 1-5). These areas include the locations of historical annual public displays.
3. Generally, ocean areas beyond the seaward limit of State waters will qualify as conditional display areas for permitting of very rare and limited pyrotechnic events from vessels.
4. The MBNMS will consider authorization requests for fireworks displays in conditional display areas only. The Sanctuary will consider such requests on a case-by-case basis, giving priority to historically conducted public displays.
5. The number of displays within conditional display areas will be limited to prevent cumulative negative environmental effects from fireworks proliferation.
6. The MBNMS will identify authorized fireworks launch sites within conditional display areas based upon past practice and evaluation of the environmental factors and potential impacts at each considered site.
7. The MBNMS will seek a multi-year marine mammal incidental take permit from the National Marine Fisheries Service (NMFS) for the harassment of California sea lions, and harbor seals incidental to Sanctuary approved fireworks displays. The Sanctuary will define the schedule and locations for incidental take based upon past recurring displays conducted in the Sanctuary and projected private displays at conditional display areas.
8. The MBNMS will complete *formal consultation* with the U.S. Fish and Wildlife Service (USFWS) concerning potential impacts of fireworks displays on Federally listed species under the Endangered Species Act.

## MBNMS Fireworks Authorization Guidelines

1. Fireworks authorization requests will be processed in accordance with MBNMS permit and authorization regulations at 15 CFR, Part 922.
2. Current MBNMS permit guidelines will guide applicants in presenting the information necessary to process permit requests (see Enclosure 1 or <http://montereybay.nos.noaa.gov/resourcepro/firework.html>).
3. The MBNMS has established an annual quota for the maximum number of displays that can be conducted at each conditional display area as follows:

<u>Display Area</u>	<u>Public Displays</u>	<u>Private Displays</u>
Half Moon Bay	2 events	2 events
Monterey Bay North	3 events	3 events
Monterey Bay South	3 events	3 events
Cambria	2 events	2 events

4. Public and private display quotas shall remain fixed and cannot be substituted or traded within or between display areas. For example, a maximum of 3 public displays could be authorized for the Southern Monterey Bay area. A fourth public display could not be authorized by reducing the private display quota by 1. Quotas have been established to limit displays, not to maximize the quota allotment or promote additional displays.
5. Any increase in quotas or expansion of conditional display areas will require coordination and review between the MBNMS, the NMFS, the USFWS, and other applicable Federal and State natural resource trustee agencies. This process generally requires months of effort and is dependent upon existing workload and availability of resources.
6. Approval of new launch sites beyond the sites previously permitted by the MBNMS as of April 1, 2002, will require coordination and review between the MBNMS, the NMFS, the USFWS, and other applicable Federal and State natural resource trustee agencies. This process generally requires months of effort and is dependent upon existing workload and availability of resources.
7. The MBNMS acknowledges the following fireworks displays as annual historic public events that will receive priority permit consideration:

<u>Display Area</u>	<u>Event Name</u>
Half Moon Bay	HMB Independence Day Display
Monterey Bay North	Santa Cruz City Birthday Display
Monterey Bay South	Monterey Independence Day Display
	Pacific Grove Feast of Lanterns Display
	Monterey First Night Display
Cambria	Cambria Independence Day Display

8. Fireworks will not be authorized for display between March 1 and June 30 to minimize potential impacts to breeding wildlife. This period is the peak spring breeding season for many species of marine wildlife, including harbor seals and snowy plover. This restriction will apply Sanctuary-wide.
9. Public display authorizations will generally be issued on a 5-year basis.
10. Private display authorizations will not generally be issued for multiple years, unless the display sponsor can demonstrate that an event has occurred annually over time and can guarantee that the event will continue to occur in a consistent manner, time, and format. For example, a fireworks display with a consistent product composition that has occurred for several consecutive years at the same location and time of year could be considered for a multi-year permit.

11. All fireworks permit applications must provide a complete description of the proposed fireworks display and the event date. Applications cannot be submitted on a speculative basis. For example, a business could not request approval for 3 unspecified private displays that it hopes to sell to potential customers at some future time. Speculative or incomplete applications will be rejected.
12. The MBNMS will, at a minimum, consider the following factors before issuing authorizations:
  - Frequency between displays and potential cumulative effects
  - Fireworks launch site location relative to marine resources
  - Seasonal sensitivity of marine life in the area
  - Size and type of display and its impact on the marine environment
  - Size, type, and number of fireworks effects scheduled for display
  - Duration of display
13. The MBNMS will continue to utilize the following permit conditions to minimize potential impacts from fireworks displays, and apply other conditions deemed appropriate after evaluation on a case-by-case basis:
  - Limit the location, timing, and duration of the display
  - Limit the number of aerial “salute” effects used in the display
  - Delay the use of aerial “salute” effects until five minutes after the commencement of the display to afford wildlife time to depart the impact area
  - Require removal of plastic labels and wrappings from pyrotechnic devices
  - Prohibit use of any aerial mortar containing non-biodegradable components exceeding five percent of the mortar’s mass
  - Require recovery of all related debris from the launch site and affected beaches
  - Require monitoring, and reporting
  - Require post-show cleanup
14. If the MBNMS determines that a proposed fireworks display may cause collateral impacts to upland protected species or habitat under the jurisdiction of the USFWS, the MBNMS may add a special condition to a permit requiring the permittee(s) to collaborate with the USFWS and/or appropriate State resource protection agencies to develop and implement safeguards for coastal habitat or listed and sensitive species at risk. The condition will stipulate that failure to provide to the MBNMS written confirmation of USFWS or other required agency approval for the activity prior to the fireworks display shall invalidate the MBNMS permit and subject the permittee to possible Federal fines, penalties, and civil assessments should the display proceed.

## **Monitoring**

1. The MBNMS will specify in each authorization whether any special monitoring requirements apply.
2. The MBNMS will consult with the NMFS and develop a proposed marine mammal monitoring plan for the requested incidental take permit and subsequent regulations. The monitoring plan will be implemented by the MBNMS.